



STATE OF TENNESSEE  
DEPARTMENT OF COMMERCE AND INSURANCE  
REAL ESTATE APPRAISER COMMISSION  
500 JAMES ROBERTSON PARKWAY  
NASHVILLE, TENNESSEE 37243-1166  
615-741-1831

**December 15<sup>th</sup>, 2014**  
**Minutes**  
**First Floor Conference Room (1-A)**  
**Davy Crockett Tower**

The Tennessee Real Estate Appraiser Commission met on December 15<sup>th</sup>, 2014, in Nashville, Tennessee, at the Davy Crockett Tower in the first floor conference room. Mr. Walton called the meeting to order at 9:00 a.m. and the following business was transacted.

**COMMISSION MEMBERS PRESENT**

Tim Walton  
Norman Hall  
Rosemary Johnson  
Gary Standifer  
Eric Collinsworth  
Randall Thomas  
Dr. Warren F. Mackara

**COMMISSION MEMBERS ABSENT**

Mark Johnstone  
Nancy Point

**STAFF MEMBERS PRESENT**

Nikole Avers, Adrian Chick, Keeling Gamber  
Jennaca Smith, Eman Youssef, Cody Kemmer,  
Dennis O'Brien

**COURT PERSONNEL**

Judge, Leonard Pogue  
Court Reporter, Jaimee Dillon

Mr. Walton read the public meeting statement into the record which indicated the agenda was posted to the Tennessee Real Estate Appraiser Commission website on November 12<sup>th</sup>, 2014.

**ADOPT AGENDA**

Mr. Hall made a motion to adopt the agenda. It was seconded by Ms. Johnson. The motion carried unopposed.

**MINUTES**

The November 10<sup>th</sup>, 2014 minutes were reviewed. Mr. Hall made the motion to accept the minutes as written. It was seconded by Mr. Standifer. The motion carried unopposed.

**REPORT OF EXPERIENCE INTERVIEWS**

**Paul Nicholas Barrett** made an application to upgrade from a registered trainee to a certified residential real estate appraiser. Ms. Avers was the reviewer and recommended that his experience request be granted. Mr. Hall made a motion to accept the recommendation. This was seconded by Mr. Thomas. The motion carried unopposed.

**Jodi Cherie Trigg** made an application to upgrade from a registered trainee to a certified residential real estate appraiser. Ms. Avers was the reviewer and recommended that her experience request be granted.

Mr. Hall made a motion to accept the recommendation. This was seconded by Mr. Collinsworth. The motion carried unopposed.

**Margaret Ann Shelton** made an application to upgrade from a registered trainee to a state licensed real estate appraiser. Ms. Avers was the reviewer and recommended that her experience request be granted. Mr. Thomas made a motion to accept the recommendation. This was seconded by Mr. Hall. The motion carried unopposed.

**Connie A. Norton** made an application to upgrade from a state licensed real estate appraiser to a certified residential real estate appraiser. Ms. Avers was the reviewer and recommended that her experience request be granted. Ms. Johnson made a motion to accept the recommendation. This was seconded by Mr. Hall. The motion carried unopposed.

**Michael Ray Mubarak** made an application to upgrade from a registered trainee to a certified residential real estate appraiser. Ms. Avers was the reviewer and recommended that his experience request be granted. Mr. Hall made a motion to accept the recommendation. This was seconded by Mr. Thomas. The motion carried unopposed.

**Richard Charles Towne** made an application to upgrade from a registered trainee to a certified residential real estate appraiser. Ms. Avers was the reviewer and recommended that his experience request be denied since his reports failed to demonstrate compliance with USPAP. Mr. Hall made a motion to approve the recommendation. This was seconded by Mr. Collinsworth. The motion carried unopposed.

**Pamela H. Mooneyham** made an application to upgrade from a registered trainee to a certified residential real estate appraiser. Ms. Avers was the reviewer and recommended that her experience request be denied since her reports failed to demonstrate compliance with USPAP. Mr. Hall made a motion to approve the recommendation. This was seconded by Mr. Thomas. The motion carried unopposed.

**Cody Andrew Mays** made an application to upgrade from a registered trainee to a state licensed real estate appraiser. Ms. Avers was the reviewer and recommended that his experience request be denied since his reports failed to demonstrate compliance with USPAP. Mr. Hall made a motion to approve the recommendation. This was seconded by Ms. Johnson. Mr. Walton recused himself from the vote, which carried unopposed.

**Georgia C. Hyman** made an application to upgrade from a registered trainee to a certified residential real estate appraiser. Ms. Avers was the reviewer and recommended that her experience request be granted. Mr. Thomas made a motion to accept the recommendation. This was seconded by Mr. Hall. The motion carried unopposed.

**Tammy Wells Oliver** who made an application to upgrade from a registered trainee to a certified residential real estate appraiser, was unable to attend the interview as she was unwell. She made an email request to be interviewed at the next meeting.

**Jesse Beth Walker** made an application to upgrade from a registered trainee to a certified general real estate appraiser. Mr. Standifer and Mr. Thomas were the reviewers and recommended that her experience request be granted. Mr. Hall made a motion to accept their recommendation. This was seconded by Mr. Collinsworth. The motion carried unopposed.

**Michael D. Bray** made an application to upgrade from a registered trainee to a certified residential real estate appraiser. Mr. Collinsworth was the reviewer and recommended that his experience request be granted. Ms. Johnson made a motion to approve the request. This was seconded by Mr. Hall. The motion carried unopposed.

**Anthony Scott Fultz** made an application to upgrade from a registered trainee to a certified general real estate appraiser. Mr. Hall was the reviewer and recommended that his experience request be granted. Mr.

Thomas made a motion to approve the request. This was seconded by Ms. Johnson. The motion carried unopposed.

## NOVEMBER 2014 - EDUCATION COMMITTEE REPORT

Dr. Mackara submitted his recommendations electronically, which were read into the record by Director Avers, as below:

Course Provider	Course Number	Course Name	Instructor(s)	Hours	Type	Recommendation
Columbia Institute	1801	Defensible Appraising, No. 845	George Harrison	7	CE	Approve
Columbia Institute	1802	Methodology and Application of Sales Comparison, No. 844	George Harrison	7	CE	Approve
ASFMR	1807	Cost Estimating	Jeff Berg	7	CE	Approve
McKissock, LP.	1808	Expert Witness Testimony: To Do or Not to Do	T. Martin, S. Maher, L. McMillen, C. Huntoon, D. Bradley, A. Brown, W. Czekalski, S. Vehmeier, J. Smithmyer	7	CE	Approve
McKissock, LP.	1809	Secondary Market Appraisal Guidelines	D. Bradley, T. Martin, S. Maher, L. McMillen, C. Huntoon, A. Brown, W. Czekalski, S. Vehmeier, J. Smithmyer	7	CE	Approve
NAIFA	1810	Understanding and Using Comparable Transactions	M. Orman	7	CE	Approve
Appraisal Institute (Greater TN chapter)	1811	Subdivision Valuation	V. Dowling	7	CE	Approve
Appraisal Institute (Greater TN chapter)	1812	Using Spreadsheet Programs in RE Appraisals	D. Braun	7	CE	Approve
ASFMR	1813	Basic Appraisal Procedures (A102)	E. Lumpee, A. Roehm	28 30	CE QE	Approve Approve

**Vote:** Mr. Hall made a motion to accept the recommendations. This was seconded by Mr. Collinsworth. The motion carried unopposed.

### DIRECTOR'S REPORT

Director Avers presented the current appraiser commission budget, licensing numbers and complaint status summary. She also mentioned that the AQB had released the 4<sup>th</sup> exposure draft relating to background check criteria, a copy of which had been uploaded to the member iPads, along with a letter from appraiser Chip Baine on the upcoming rule making hearing.

### LEGAL REPORT

#### 1. 2014014951, 2014014952

#### RE-PRESENTATION

**This complaint is a re-presentation from the October 2014 Commission meeting, during which the Commission voted to defer the matter until the November meeting and allow Commissioner**

**Standifer to review the file and make a recommendation as to proper discipline, if any. The facts of the matter as presented are as follows:**

This complaint was filed by a consumer and alleged that Respondent supervisor and trainee over-valued a property and said that the Respondent supervisor was on vacation at the time of the appraisal, and the trainee was not supervised.

Respondent sent a response to the complaint, indicating that the Complainant attempted to influence his value opinion, indicating the contract price was too high and told him that the Complainant was a licensed appraiser in Texas. The subject property is a mixed-use property which consists of an older three-bay strip center on the front of the tract with multiple storage improvements situated on the rear of the tract. He indicated the prior owner had passed away and the property was under managed and underperforming. The supervisor appraiser indicated he did not discuss or disclose any of the conversations with the buyer or the client with his trainee, as he did not want him to be influenced by Complainant's attempts to influence value. He indicated when the appraisal was delivered the Complainant was unhappy with the appraised value and was totally unfamiliar with a DCF and did not seem to know that the income approach is based on the current value of future earnings. The value at stabilization which we provided was, of course, even higher. He wanted the property valued based on the current occupancy, which we did not consider appropriate. The Respondent indicated he was at a total loss as to how the Complainant being in Texas during this entire process, could ascertain that Respondent was on vacation for 10 days. On May 20, 2014, the registered trainee appraiser met a representative of the owner at the property. The representative unlocked the property and left immediately afterwards. The Respondent-supervisor met the Respondent-trainee shortly after the representative left and they spent approximately two hours inspecting the property. He indicated the Complainant's statement is totally untrue and he questions how he would have any knowledge as to the extent of the inspection, as he was not present. After assisting in the overall preparation of the report and reviewing the final product, the Respondent-supervisor placed his signature on the report. He questioned how the Complainant would have any knowledge of my whereabouts or activities while this report was being prepared or when it was signed.

**REVEIWER CONCLUSIONS [alleged violations included within brackets]:**

- **Scope of Work:** The report fails to properly identify the problem to be solved. The property was appraised Fee Simple, while encumbered by a twenty month lease at below market rates identified in the report as below market, creating both Leased Fee and Leasehold considerations. Neither Leased Fee nor Leasehold positions were addressed in the report and there were no stated extraordinary assumptions or hypothetical conditions employed regarding the leases in force at the time of the appraisal. [SR 1-1(a)(b)(c); 1-2(h); 1-4(d); 2-2(a)(iv)]
- **Improved Sales Comparison Approach:** The comparison of improved sales was not included as an approach to value in this report. The reasoning behind this decision was based on the limited amount of comparable sales and the inability to verify an adequate number of sales with at least 1 principal participant. The omission of the sales comparison approach on this basis would not meet the expectations of parties who are regularly intended users for similar assignments and is not what an appraiser's peer's actions would do in performing the same or similar assignment. The scope of work should have been expanded to allow normal verification of sales, the sales presented in the appraisal report and the completion of the sales comparison approach. There was no evidence in the workfile of improved sales research. [SR 1-1(a)(b)(c); SR 1-2(h); SR 1-4(a); SR 1-6; SR 2-1(a)(b); SR 2-2(a)(vii)(viii); Record Keeping Rule, Lines 321-323]
- **Land Sales Comparison Approach:** The report includes a sales comparison approach for land sales used for developing the opinion of site value used in the cost approach. However, there is no discussion or support in the report or workfile for the development or application of comparable land sale adjustments – only statements regarding adjustment amounts and the feature. [SR 1-4(a); SR 2-2(a)(viii)]
- **Cost Approach:** Cost approach narrative refers to reproduction cost, but the cost analysis appears to use replacement cost. Also, given the significant difference in the value indication yielded by the cost approach versus the income approach indicates that there is likely some functional and/or

external obsolescence present that might be accounted for in the as-is value of the cost approach. [SR 1-1(c)]

- **Income Approach:** On page 46, six comparables were provided with a rental range from \$6.72 to \$10.56 per square foot and an average rent of \$8.90 per square foot. The analysis lacked comparative support as there was no comparison of physical similarity, building tenant mix or age of construction in the development of estimated market rent produces. The report indicated a market rent of \$6.75 per square foot which is substantially higher than current contract rent of \$4.00 per square foot creating a positive leasehold position for the tenant of \$2.75 per square foot for the remainder of the lease. During this period, the value of the landlords leased fee estate combined with the tenant's positive leasehold position produces the indicated fee simple market value for the subject property. These values are not addressed in the report.

The rent adjustment to \$5.40 per square foot remains below market rents and perpetuates the leased fee/leasehold positions in the subject property. There is no explanation as to why the subject does not negotiate to market rent.

The hypothetical conditions applied to the property in order to raise income levels are not actually present at the time of inspection and directly impact the as-is estimate of value. In taking this approach, a timeline detailing the cost of implementing these improvements and when they took effect should be reflected in the discounted cash flow model. [SR 1-1(a)(b)(c); SR 1-6; SR 2-1(a)(b); SR 2-2(a)(viii)]

- **Market Rate Indication:** The expense ratio is ignored as a crucial unit of comparison for the subject property. The subject buildings are significantly older than the comparables and as a result have a higher expense ratio (exceeding 50%) which directly impacts the cap rate for the property. Rather than using a blended cap rate, the lower cap rate was used in the discounted cash flow model which would produce higher values. [SR 1-1(a)(b)(c); SR 1-6; SR 2-1(a)(b); SR 2-2(a)(viii)]
- **Debt Coverage Ratio Method:** The debt coverage ratios listed on page 51 for the average retail and self storage market range from 1.41 to 1.67. The history and condition of the subject property indicates the property would struggle to be average and as a result, how the local lenders would view this property in regard to the debt recovery margins. The mean debt coverage ratio for the retail and self storage average markets indicated by the data source is 1.55. Employing this figure in the DCR formula would elevate the cap rate to 13.37% as compared to the 10.79% rate used in the report. [SR 1-1(a)(b)(c); SR 1-6; SR 2-1(a)(b); SR 2-2(a)(viii)]
- **Discounted Cash Flow Analysis "As-Is":** The retail income in year 1 for this two tenant building is presented as \$28,800. There is an inadequate explanation in the report as to the origin/development of this figure and it could not be substantiated using the information provided in the report.

In the discounted cash flow analysis on page 57, retail market rent indicated by the comparable rent analysis was never achieved in years 2, 3, and 4. The highest annual income for the retail space appears in year 3 as \$38,604 which remains below market rents. If the subject is not leased at market rents then by definition the interest appraised is an as-is leased fee estate with a leasehold position, not fee simple estate.

Historical data supporting vacancy analysis is lacking in the workfile. Data supporting narration regarding expenses, maintenance, management, etc. is missing from the workfile. [SR 1-1(a)(b)(c); SR 1-6; SR 2-1(a)(b); SR 2-2(a)(viii)]

- **Reconciliation:** The application of stringent data verification requirements on the sales comparison approach only resulted in its omission. The omission of the sales comparison approach based on sale verification is not considered acceptable when a lower verification was used to develop the income approach.

There is a very significant variation between the value indicated by the cost approach and the income approach that is not accounted for in either approach or the reconciliation. Given the weakness of the data in the income approach and the omission of the sales comparison approach the opinion of value may have been compromised. [SR 1-1(c); SR 1-2(h); SR 1-4(a); SR 1-6; SR 2-2(a)(viii)]

### **Respondent's Response to Reviewer's Conclusions:**

The Respondents indicated in response to the reviewer's conclusions that they believed the scope of work was properly defined for the assignment considering the uniqueness of the property which is 24,990 square foot property of which 6,510 was a mostly vacant strip center and the remainder a mix of storage buildings. They indicated that they attempted to get a written lease multiple times, but according to the response the lease was verbal. They indicated the leases were typically month to month or almost always less than a year and that mini warehouse appraisals are almost always developed as fee simple. They further indicated that any attempt to provide a leased fee estate on a property in which the overwhelming amount of income stream is typically based on fee simple is not considered appropriate and that they never use this approach when appraising mini warehouse properties.

In response to the allegation that the Respondents failed to include the sales comparison approach which may have been necessary for credible assignment results, the Respondents indicated that because of the uniqueness of the property they just could not find sales of properties similar enough to the subject to compare for a credible analysis. They indicated they would have verified the sales if there had been any, but responded there had been none that were similar.

In the response to the allegation that they failed to analyze such land sales necessary to support adjustments made in their site value opinion, they indicated that there were no nearby land sales. The most proximate land sales were 1.23 miles to 10.53 miles from the subject. They indicated that adjustments were subjectively applied to sales based on market experience, not pair sales. They indicated that they made an error in the report by referring to reproduction cost; it should have read replacement costs new. They admitted they should have applied some form of obsolescence in the cost approach, but indicated the cost approach was given no weight in the final analysis.

They disagreed with the reviewer's conclusions about the income approach because of the subject being a unique property mixed use improvement which was neglected and underperforming. They stated with no similar rents in the immediate area, they were forced to use comparable rents of properties that could be rationally considered a reflection of market rents. They disagree that the subject's \$4.00 per square foot contract rent could be considered as they could not verify it in writing. They indicated that the rent was low due to the deceased seller's neglecting the property for three year's due to declining health prior to his death. They provided additional support from their workfile for the indicated \$5.40 per square foot and adjustment for unfinished area which was inadvertently not sent previously. The Respondents indicated they didn't know what they reviewer was alluding to with regards to the hypothetical conditions applied to the property. They indicated in their response that they considered this essentially as a new facility with market rents and expenses developed from admittedly limited and marginally representative data. They indicated the market rated was a "blended" cap rated developed from a lender survey. They disagreed with the reviewer's conclusion that the subject property would struggle to be considered "average" and they said they reflected the subject in their choice of market rents and expenses they developed.

They concur with the reviewer conclusion that they income from the retail building should not have been reported as \$28,800. They indicated the correct number should have been \$33,204. They said this changed would not have significantly affected the value opinion. The Respondents dispute that the retail market rents would not be achieved in years 2, 3, and 4. They admitted that the reviewer was correct that historical data regarding expenses was missing from the workfile as they just do not exist. They said they data was developed from scratch based on verbal information and market data.

**Licensing History (Supervisor):** Certified General 9/18/1991-Present

**Disciplinary History:** (199901754 - Closed with no further action)

**Licensing History (Trainee):** Registered Trainee 5/4/2011-Present  
Certified General 9/23/2014-Present

**Disciplinary History:** None

**Reasoning and Recommendation (from October 2014 Commission meeting):** The reviewer found several significant deficiencies within the report prepared by Respondent, including multiple development and reporting violations. Neither the supervisor nor the second Respondent has been disciplined in the past; however, there were numerous violations noted especially in the development of the approaches to value. As such, Counsel recommends the authorization of Consent Orders, which require each Respondent to complete a thirty (30) hour General Appraiser Sales Comparison Approach course **OR** a thirty (30) hour General Appraiser Income Comparison Approach course to be completed within one-hundred eight (180) days of execution of the Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

**New Reasoning and Recommendation after Commissioner's review:** Each respondent should complete either a General Sales Comparison Approach Course **OR** a General Highest and Best Use course to be completed within 180 days of execution of the Order. These terms would be settled by Consent Order or Formal hearing.

**Vote:** Mr. Hall made the motion to accept the new recommendation. This was seconded by Mr. Collinsworth. Mr. Walton recused himself from the vote, which carried unanimously.

## **2. 2014020991**

This complaint was filed by a consumer and alleged that the Respondent over-stepped his bounds when he stated the HVAC units must be certified for two years. Complainant stated that due to Respondent's statement, which far exceeds the minimum requirements, Complainant was unable to complete the sale of his home. The letter from the heating company stating that the unit was working fine was not enough. Complainant stated he had offered a two-year warranty on the house, but that also did not meet the condition Respondent set with his statement.

Respondent sent a response to the complaint stating that this is his first complaint in twenty-two (22) years of appraising. Respondent stated he performed a VA appraisal on the subject property. The subject is twenty-six (26) years old and there were multiple issues noted on the home inspection. Many of the items rose to the level of being VA repairs. One such repair involved the HVAC units, which had significant issues. The home inspection noted that the condition of the units was poor and they appeared to be beyond their life expectancy. The units were observed during the appraisal inspection and the appearance matched the descriptions and photos in the home inspection. It was Respondent's understanding that the HVAC company hired by the seller was not willing to certify that they would last at least 2 more years. Anyone reading the home inspection and seeing the photos would be very skeptical of the HVAC company saying that no repairs were needed and the units were working fine especially since the HVAC company had already been identified as doing work that was not up to industry standards.

**Licensing History:** Certified Residential 6/9/1994-Present

**Disciplinary History:** (200315596 - Closed with no further action)

**Reasoning and Recommendation:** The subject appraisal was sent to a reviewer, and the reviewer found no violations of USPAP. As such, Counsel recommends that this matter be **Closed with no further action.**

**Vote:** Mr. Hall made the motion to accept counsel's recommendation. This was seconded by Ms. Johnson. The motion carried unopposed.

## **3. 2014024651**

This complaint was filed by a consumer, who requested the appraisal for the purpose of refinancing, and alleged that Respondent misrepresented the number of rooms in the subject property, as three (3) bedrooms instead of four (4), and used comparable sales based on 3 bedrooms. Complainant alleged that the 4 bedrooms each have a walk-in closet, and the functional use of the home is 4 bedrooms. The 4 bedroom house immediately across the street from Complainant was sold within 6 months prior, yet it

was not used as a comparable sale. An appraisal of the property on 1/22/11 and 8/24/12 both listed the home as a 4 bedroom. Complainant alleged Respondent did not use due diligence in the appraisal.

Respondent sent a response to the complaint stating that she stood by her appraisal of the subject property, and that there is no basis for the complaint. Respondent stated she has been an appraiser for fifteen (15) years and has never had a complaint filed against her.

**REVEIWER CONCLUSIONS [alleged violations included within brackets]:**

- A room's use at the time of inspection should not be the only criteria for classification. Strict adherence to use being the only classification determinant could yield unreasonable results. As in this case, if another bedroom were also being used as an office, the room count would be 7-2-2 following the appraiser's reasoning or justification. A comment in the appraisal explaining the room count allocation would likely have been of benefit in this case. However, the appraisal was not misleading if read in detail. [SR 1-1(b)]
- The cost approach is developed with land value being allocated from the tax appraisal at \$25,000. Addendum page 2 of 2 states, "The site value has been extracted from county records. There have been four sales of vacant sites in the subject community in the past year, however, all four were bank owned properties. The sales all appear to be for multiple sites. The appraiser was unable to determine the actual price of each separate site. For the purpose of this appraisal only, the tax assessed site value of \$25,000 is used to estimate the subject site value." There is concern as to the methodology used in the appraisal report, especially given lot listings at an average of \$10,000 each. [SR 1-4(a) & (b)(i)]

**Respondent's Response to Reviewer's Conclusions:**

Respondent sent a response to the reviewer's conclusions, reiterating that she stands behind her appraisal of the subject property. The criticism by the borrower that the appraisal was compromised in some way because the room he used as an office; that he insisted as an office; and that was reflected in the picture in the appraisal as an office is baseless. It is fairly clear that any room can be used as an office or bedroom, depending on the furniture in it. The fact is that it was counted in the room count. Whatever name was applied had no bearing on the valuation opinion. Respondent also wanted to make it clear that the appraisal was written for the lender/client, the intended user and not for the borrower. The borrower is not considered an intended user of this report.

The appraisal was based on valid comparable sales within the subject's market area. With regard to reviewer's bullet number 1, Respondent states that she agrees with this statement. It was not the only criteria and was addressed in her addendum, which set forth: No adjustments have been made for differences in main level bedroom count or total room count. Adjustments have been made for differences in above-grade bath count only. In the subject neighborhood, there does not appear to be a difference in value for differences in bedroom count or total room count. Respondent stated that the actual current use of a room is a more common designation for appraisal purposes. If there had been a further need for expanded commentary, it would have been provided.

With regard to reviewer's second bullet point regarding concern as to the methodology used in the appraisal report, Respondent stated that the methodology used in the cost approach is an accepted industry standard in the absence of reliable market-driven land sales. It is not a method she created herself. The appraiser did not locate any listings averaging \$10,000 each. The only way to verify the sale price of each site in this case would be to physically compare the deeds for all sales and to determine whether there was a separate deed issued for each individual property. This is beyond the scope of work of the appraiser, and was not required as part of the assignment. All four sites were foreclosures, with original sale prices of \$40,000 and assessed values of \$25,000, not the actual recent sale prices. This further supports the use of the site value reported in the appraisal report. An appraisal is not only based on comparable sales and comparable listings, but is based on an appraiser's experience and familiarity with the market.

**Licensing History:** Certified Residential 10/9/2007-Present

**Disciplinary History:** None.

**Reasoning and Recommendation:** The reviewer found that the report does not fall short of the requirements of USPAP as to the complaint items. As such, Counsel recommends that this matter be **Closed with a Letter of Caution**, cautioning the Respondent on supporting site value in her appraisal reports.

**Vote:** Mr. Hall made the motion to accept counsel's recommendation. This was seconded by Mr. Collinsworth. The motion carried with Mr. Walton in opposition.

#### **4. 2014025011**

This complaint was filed by a consumer and alleged that Respondent did an FHA appraisal incorrectly, due to incorrect square footage, incorrect comparable sales, and incorrectly listing the house as a townhouse, instead of a PUD.

Respondent sent a response to the complaint stating that it is unfortunate that the subject property does not meet HUD/FHA's MPRs in its present condition. The appraiser is required to follow HUD/FHA appraisal protocol when doing FHA appraisals and report any items that do not meet HUD/FHA's MPRs. Respondent stated that this is what he did. It would have been treated differently had the appraisal been for a conventional loan, but it was not. Respondent stated that with regard to square footage, he followed ANSI when measuring the dwelling. The owner seems to think the enclosed porch or patio area on the rear should be counted in the gross living area, but he did not count it for two reasons: it is not constructed of the same quality as the main living area. There was no permit issued other than those of the original plans for construction in 1996 which does not show an enclosed porch or patio. The tax records do not show an enclosed porch but a screened patio with 192 square feet. Therefore, Respondent did not count the enclosed porch or patio in the gross living area.

The seller stated that the sales used are distressed sales. Respondent was unable to find any evidence that the sales used were distressed. Respondent used the MLS as the data source and used the tax records as a verification source for all the sales and active listings.

Respondent stated the subject property is an attached PUD. The generic name for this type of property is a townhouse. The type of dwelling is to be reported a certain way using the UAD format which the FHA has adopted. Therefore, the description of "Townhouse" is correct. The comparable sales were reported the same way.

#### **REVEIWER CONCLUSIONS [alleged violations included within brackets]:**

- On comparable sale 3, the appraisal living area footage is 1,757. This footage appears to include a sunroom. Following the appraiser's comments, this area should have been reported as 1,466, and the adjustment for the addition of a sunroom should be omitted. This would likely lower the indicated value generated by this sale to align more with the other comparisons as well as the final conclusion. [SR 1-1(b)(c)]

#### **Respondent's Response to Reviewer's Conclusions:**

Respondent sent a response to the reviewer's conclusions stating that after seeing the reviewer's comments, he went back and reviewed the workfile for the subject property and found he did make an error on the reporting of the living area for comparable 3. The correct living area should have been 1,466 square feet and no adjustment should have been made for the sunroom. This error was not intentional and was not meant to mislead the intended user of the report. Respondent stated he overlooked the comments in the MLS brief for sale 3 about there being a sunroom. Respondent disagrees with the statement by the reviewer that this would likely lower the indicated value generated by this sale to align more with the other comparisons as well as the final conclusion. If he had reported the living area as 1,466 square feet then no adjustment would have been made for the living area. Respondent had made the adjustment of \$7,140 for the difference in the living area when compared to the subject. So, if no adjustment was necessary for the living area and the adjustment for the sunroom is removed, this would almost be a wash in terms of effect on the final conclusion.

#### **Licensing History:**

Licensed RE Appraiser  
Certified Residential

10/12/1994-6/23/2005  
6/24/2005-Present

**Disciplinary History:** (200603224-Closed with no further action)

**Reasoning and Recommendation:** The reviewer found that as to USPAP paragraph (b), the error is considered substantial but did not significantly affect that appraisal. Relative to paragraph (c), the error was not a repetitive error and is limited so that this error does not qualify as a series of errors nor did it significantly affect the results of the appraisal. As such, Counsel recommends that this matter be **Closed with a Letter of Caution.**

**Vote:** Mr. Standifer made the motion to accept counsel's recommendation. This was seconded by Mr. Hall. The vote carried unanimously

## **5. 2014016101**

This complaint was submitted anonymously and alleged that the subject property was over-valued, the site value was not supported, and the cost of the improvements was not supported.

Respondent did not submit a response to the complaint.

### **REVEIWER CONCLUSIONS [alleged violations included within brackets]:**

- The appraisal does not provide support in the Neighborhood section under the Market Condition section for the direction of Property Values, Supply/Demand for the One-Unit Housing Trends. [SR 1-1(a); 1-3(a); 2-1(a)(b)]
- The appraisal does not develop an opinion of the Highest and Best Use of the subject. No zoning information was provided for the subject, and the appraisal does not show the lot dimensions which was stated on the attached plat. [SR 1-3(b)]
- The appraisal states some of the interior features, ie: Hardwood flooring, and ceramic tile flooring in the bathrooms and kitchen, whirlpool, etc .. Based on the pictures provided of the subject property, the Four Square rectangular design, the stated description of improvements, etc., the subject property does not have the quality of features, exterior appointments or offsets typical of properties in this price range. The appraisal also shows the condition of materials in both the exterior and interior as Average and the subject is new construction. [SR 1-1(a)(b)(c); 1-4(a); 1-6(a); 2-1(a)(b); 2-2(b)(viii)]

- Numerous inconsistencies were observed in the application the sales comparison approach with the appraiser providing no analysis or support for: lot size adjustments, view adjustments, or age/effective age adjustments. Site adjustments: Sales 3 and 4 are broken down to square footage and the rest of the comparable sales and listings are expressed in acre lot size. The site adjustments are not consistently applied, sale 1 had .80 acres (shown as 31926sf) was adjusted - \$45,000, sale 4 had .68 acres (shown as 29760sf) and adjusted -\$45,000; sale 5 was a 1 acre lot and adjusted +\$12,000; listing 7 was a 3.54 acre lot and adjusted -\$14,750. The other sales and listings were stated as " Equal" with these lots ranging from .589 acres to .85 acres. There was no explanation or reasoning given in the Comments of Sales Comparison Approach for any of the adjustment differences or lack of adjustments.

The view adjustments are not consistently applied, with research indicated that sales 1, 2, 3, 4, 6 and listing 7 all are lake view lots some with premier views of the main channels of Center Hill Lake and others having winter views or more minimal lake views. Center Hill Lake has only nine or ten lake frontage lots, none of the sales or listings used in the appraisal were lake frontage properties, therefore, sales 3 and 4 and sale 6 were misstated. Sale 6 was a premier lake view lot but is stated as Neighborhood and Equal in value to the subjects Wooded view. There was no explanation or reasoning given in the Comments of Sales Comparison Approach for any of the adjustment differences or lack of adjustments.

The Age/Effective Age adjustments were inconsistently applied: sales 2, 6 and listing 7 were adjusted at \$250/year and sales 3 and 4 were adjusted at \$300/year. The appraisal does not offer any explanation as to how the age/effective age adjustment was obtained or derived. The subject is shown and stated as new construction but is listed in Average condition on page 1 and in the Sales Comparison Approach, and although this is shown as a consistent statement, the appraisal

does not offer insight into the lack of an adjustment for any of the sales or listing that are up to 21 years in age.

The Bathroom, Garage/Carport, Porch/Patio/Deck, and Extra's adjustments are inconsistently applied and there is no explanation of how the applied adjustments were determined.

Listing 8 does not exist as stated. Based on research of the address stated in the appraisal and researching this address through the Register of Deeds, the County Tax Assessor, and 911 Address Verification it is clear that the appraiser did not verify the information, this was confirmed by three government agencies, the County Register of Deeds, Tax Assessor and the 911 Address Verification service. [SR 1-1(b)(c); 1-4(a); 1-6(a)(b); 2-1(a)(b); 2-2(b)(viii)]

- Based on the current building cost obtained from Marshall & Swift Residential Handbook and the stated Quality rating of Average, the cost figures used in the Cost Approach are not supported.

The Opinion of Site Value shows no support stating only "Comparable vacant lot sales were researched and studied to reveal a value of \$75,000", and based on my analysis and research of the lot sales in the market area/s, the stated value is not support in the market. The land value was not supported. There is no Summary of the Land Sales or other methods used for estimating the site value.

The appraisal states under Comments of the Cost Approach that the Modified Economic Age Life method was used to calculate depreciation. The appraisal does not support this method in Cost Approach and since the subject is new construction there would not be Curable Physical Depreciation or typically Functional Depreciation.[SR 1-1(a); 1-4(b)(i); 1-6(a); 2-1(a)(b); 2-2(b)(viii)]

- The appraisal lacked support and information regarding Highest & Best Use, Market Conditions, Zoning description and regulations. The Sales Comparison Approach lacked support for site adjustments, view adjustments, age adjustments, condition adjustments, bathroom adjustments, etc. The Cost Approach lacked support of the Opinion of Site Value, the cost approach lacked support for the cost/sq. ft. and site value and why the appraisal stated the use of the Modified Economic Age Life Method was used when the report shows only the Age/Life Method of Depreciation.

<b>Licensing History:</b>	Certified Residential	1/4/1993-2/30/2011
	Suspended	3/29/2011-4/28/2011
	Active	4/29/2011-2/14/2012
	Suspended	2/15/2012-2/27/2012
	Active	2/28/2012-Present

**Disciplinary History:** (937640 - Closed with Consent Order for corrective education; 941775 - Closed with Letter of Warning; 941784 - Closed with Letter of Warning; 941876 - \$250 civil penalty and Letter of Instruction; 945311 - Dismissed; 200501674 - Closed with Consent Order with \$500 civil penalty; 200502460 - Closed with Consent Order with \$1,000 civil penalty; 201000360 & 201001311 - Closed with Consent Order for 30 day suspension, 1 year probation, and 75 hours of education; Formal Charges pending on 2013017571; Formal Charges pending on 201400758)

**Reasoning and Recommendation:** Counsel recommends the authorization of a Consent Order for Voluntary Surrender of Respondent's credential. Such terms are to be settled by Consent Order or Formal Hearing, this matter to be heard alongside the two other matters with formal charges pending.

**Vote:** Mr. Hall made the motion to accept counsel's recommendation. This was seconded by Mr. Standifer. The vote carried unanimously.

## **6. 2014024521**

This complaint was filed by a former employee that was working with Respondent and alleged that Respondent was asking him and other employees to write/do appraisal reports without direct supervision and also alleged that another employee was taking renewal courses for Respondent.

Respondent sent a very lengthy response to the complaint stating that the Complainant was released from Respondent's employment under hostile and criminal circumstances on August 29, 2014. On Thursday, August 28, 2014 Complainant had a verbal altercation with another supervisory employee. Complainant was warned by Respondent that this would not be tolerated. Respondent claimed that Complainant locked the other employees out of the computer programs that they utilized to do the office work. Respondent also claimed that Complainant attempted to extort money from Respondent's company, as well as posted threatening messages on employees' Facebook pages, and that it was only after these attempts had failed that Complainant filed the complaint against Respondent. Respondent stated that the Complainant was directed and guided throughout the appraisal writing process by Respondent, as well as other staff who were helping to train him. Respondent also stated that the allegations that someone was paid to take Respondent's USPAP courses for him were untrue. Respondent stated that Complainant misconstrued conversations regarding Respondent keeping up with his continued education and having paid for his trainees and others to fill the classes at TREES, alongside Respondent so the courses would not be cancelled due to lack of enrollment. Respondent did admit that he paid for trainees to take these courses, in order to sharpen their industry knowledge and skills in the office, but these were not Respondent's continuing education courses. Respondent stated he stands by his record of fourteen years of compliance as a Certified Residential Appraiser, with no complaints until now.

After Respondent sent his response to the complaint, and Complainant was notified of the response, Complainant sent written correspondence to this office on October 14, 2014, stating that he wished to drop his complaint against Respondent, and that he wishes to no longer be contacted by Respondent, his associates or the Commission regarding this issue.

<b>Licensing History:</b>	Registered Trainee	6/18/1998-7/24/2001
	Certified Residential	7/25/2001-Present

**Disciplinary History:** None.

**Reasoning and Recommendation:** Complainant has expressed his wishes to withdraw the complaint, and there is no proof to suggest any violation on the part of Respondent. As such, Counsel recommends that this matter be **Closed with no further action.**

**Vote:** Ms. Johnson made the motion to accept counsel's recommendation. This was seconded by Mr. Hall. The vote carried unanimously.

## **FORMAL HEARING**

The Commission held a formal hearing before Judge Leonard Pogue, attended by court reporter Jaimee Dillon.

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Having no further business, Mr. Walton adjourned the meeting at 5:35 p.m.